



**STATEMENT OF**

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**TO THE**

**SUBCOMMITTEE ON COMPENSATION  
AND EMPLOYEE BENEFITS  
HON. MARY ROSE OAKAR, CHAIR**

**HOUSE POST OFFICE AND CIVIL SERVICE COMMITTEE**

**H.R. 1518, INCLUDE U.S. CUSTOMS  
SERVICE INSPECTORS IN "6(c)"  
RETIREMENT**

**U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C.**

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Madame Chair, Members of the Subcommittee, I am Paul W. Newton, Director of Legislation of the National Treasury Employees Union. NTEU is the exclusive representative of over 120,000 Federal workers, including all employees of the U.S. Customs Service worldwide.

We appreciate this opportunity to testify on H.R. 1518, a bill to amend title 5, United States Code, to include Inspectors of the U.S. Customs Service and the Immigration and Naturalization Service within the Federal law enforcement officers and firefighters retirement provisions with entitlement to retire at age 50 with 20 years of service.

Our union -- especially the over 4,000 Customs Inspectors, we represent -- commends the Chair of the Subcommittee for once again facing the issue of the lack of fairness and equity by excluding the inspector from the early retirement provisions of the law. We also want to thank Rep. Al Swift (D-WA) and the co-sponsors of the bill for their diligent efforts to obtain enactment of this legislation.

We have long taken strong issue with the Office of Personnel Management's narrow and strict interpretation of the definition of "law enforcement officer." OPM testified at your hearing last year that the definition is limited to those positions the duties of which are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws

of the United States. On this basis, OPM has consistently turned down agency requests for coverage of Inspectors saying that ". . . most of their work involves routine inspections . . . Routine inspection of travelers, baggage, and cargo is not a qualifying duty for coverage under this program." It is hardly routine when the inspection involves being always alert to persons or companies known or suspected of being Customs violators, or there is an outstanding warrant for persons wanted by Federal, State and local law enforcement agencies. It is hardly routine that it is the Inspector who makes the initial apprehension and detention and is required to arrest these fugitives, a group which includes persons charged with crimes ranging from robbery, rape and murder to those behind in their child support payments.

The enforcement nature of the Inspector's role cannot be questioned. Overall, the Customs Service enforces over 400 statutes and regulations for 40 different Federal agencies. Included among these are a number of statutes that require the Inspector to be able to recognize and, if necessary, detain individuals suspected of illegal criminal activity, including drug trafficking and violent crimes. Inspectors currently must complete a nine-week training program at the outset of their employment which stresses law enforcement aspects such as firearms operation, detention and arrest techniques, and search and seizure procedures.

In fact, the interrogation and apprehension of known and suspected criminals results in over 7000 arrests by Customs Inspectors every year. Many of these are based on data from the Federal Bureau of Investigation's National Crime

Information Center (NCIC). The FBI has noted that Customs Inspectors have been responsible for nearly seven percent of all NCIC arrests; more than any other single law enforcement agency in the country. It should be no surprise, then, that approximately 75 percent of Customs Inspectors carry firearms either by requirement or by choice in order to protect themselves against the types of individuals they may encounter in the course of their jobs. Indeed, this past year, the Customs Service established a new requirement that Inspectors must qualify in the use of firearms before they can perform inspectional duties.

In recent years, Customs Inspectors served on Special Enforcement Teams which were responsible for 19 percent of all heroin seizures by the agency, 49 percent of the cocaine seizures, and 37 percent of the hashish seizures. Inspectors have also participated in Operation Exodus which monitors illegal exportation of high technology. Activities such as these have taken the Inspector far beyond traditional duties into the areas of investigation, surveillance, and confrontation with dangerous criminals.

For example, the NCIC data basis is interfaced with the Treasury Enforcement Communications System (TECS), which provides Inspectors with jobsite information. The two systems contain data on approximately 175,000 persons who are wanted and/or considered dangerous, and 970,000 vehicles which have been stolen or used in the commission of felonies. As a result, there are at least 1,125,000 potentially dangerous situations that Inspectors could confront at our nation's land crossings, airports, and

seaports. Since 1900, 54 Inspectors have been killed in the line of duty and over 100 cases of assault have occurred since 1974.

Clearly, as the law enforcement responsibilities of the Inspector position--already a basic part of the duties--increase, so too do the possibilities of injury or even death. It is not merely the enforcement aspect of the Inspector's job that contains danger, but also the adverse environmental and physically strenuous conditions which these employees face on a daily basis.

The mere recitation of law enforcement statistics does not fully convey the accompanying mental and physical strain that such acts place on the Inspector. Though the TECS system enables an Inspector to identify many potentially dangerous suspects, not everyone who is armed and dangerous is entered into the system. The potential for being caught unaware is ever present for Inspectors. From the time a criminal suspect is identified, either by his own action or through TECS, to the time of apprehension, the Inspector is in potential danger. The mental stress of facing a violent confrontation combined with the physical strain of subduing, disarming or chasing a suspect can exact a severe toll on the Inspector.

In addition, the process of inspecting aircraft, vessels, automobiles and railcars requires bending, lifting or moving heavy containers, kneeling or stooping for prolonged periods and even crawling into cramped cargo holds. Inspectors are sometimes required to disembark from large ships onto smaller craft in all types of weather conditions, or stand for hours

at land border crossings in an awkward position breathing exhaust fumes. All of these strenuous conditions require the stamina and endurance of a relatively young and fit workforce.

Another factor adding to the danger and stress of the Inspector's job is the isolation in which many of these Customs employees must work. Wherever in the United States international passengers and cargo arrive, a Customs Inspector must be stationed there or travel to that location, no matter how remote. In many cases, the Inspector is the only law officer on the scene, with the closest backup miles away. Airports, land crossings and seaports are all some of the isolated areas where the Inspector must work.

The U.S. Customs Service has noted that even normally busy terminals such as John F. Kennedy International Airport in New York City can at certain times be aptly called isolated duty stations in that only one Inspector is assigned to clear small aircraft after midnight.

A Customs Service report states that: "In virtually all locations along the borders, the airport is generally located several miles outside of town, and the airport offices are closed at night. The Customs Inspector reports alone to a deserted, often poorly lighted airfield, generally with no advance knowledge of the kind of people he will be meeting. With air smuggling on the increase, the likelihood of encountering a violation, or evidence of the aircraft having been used to smuggle, is considerable. The Inspector who makes such a discovery has no immediate support, and may be

considerably outnumbered. Even if he can get to the telephone or radio to call for help, it may be an hour before another law enforcement officer can reach him. This is almost equivalent to no help at all, since it can be assumed that the violator(s) will not wait quietly for that period of time. The Inspector must handle the situation himself, alone."

The words used in that statement could accurately describe any number of ports of entry along our nation's border. The vulnerability these men and women feel is underscored by the fact that smugglers and fugitives often seek out such ports in the hopes of escaping detection. Working alone in such potentially dangerous circumstances only enhances both the danger and the stress of the Inspector's job.

In addition, many Customs Inspectors commonly work rotating shifts which require them to alternate between work days of 8:00 a.m. to 4:00 p.m., 4:00 p.m. to 12:00 midnight, and 12:00 midnight to 8:00 a.m. This policy of rotating shifts every two weeks adds yet another physical and mental burden to the inspectional workforce.

In a study for the U.S. Department of Health and Human Services, Dr. Donald L. Tosto found that rotational shifts had numerous deleterious effects on employees who worked them. The results of the study showed that shift workers tend to report more physical complaints, more problems with sleep, more fatigue, and greater personal and domestic problems than other workers. These findings provide further evidence of the physical and psychological strains faced by

Inspectors which necessitate the maintenance of a capable, vigorous workforce.

We have described many of the factors which make the Customs Inspector's job hazardous, yet incredibly the concept of hazard is not a factor in determining whether a "law enforcement officer" should be entitled to early retirement. OPM in their testimony last year stated ". . . we might need to consider . . . reintroducing the concept of hazard into the definition. That was previously in the law and taken out in 1974." If that be the case, then Section 8331(20) of Title 5, United States Code which defines law enforcement officer ought to be amended to include the concept of hazard in who would be eligible for early retirement. We would strongly endorse such an amendment as it would allow for the consideration of other occupation groups which should be covered but for the existing narrow interpretation of the definition and the lack of the concept of hazard in determining eligibility.

We believe that Revenue Officers in the Internal Revenue Service more than meet the criteria of a law enforcement officer engaged in a hazardous occupation, kidnaping, murder and assaults are an ever present danger to the Revenue Officer. They are exposed to an ever increasing number of life-threatening situations in the course of their normal duties. Assaults against IRS employees increased from 531 in 1983 to 789 in 1984--a 50 percent increase. In addition to these incidents, there are several well-financed groups around the country who advocate organized violence against IRS employees.



Excluding the Revenue Officers and the Inspectors of the Customs Service and INS is not only unfair to this group of employees but prevents the government as the employer from maintaining a young and vigorous workforce in these areas of law enforcement.

In summary Madame Chair, we strongly endorse H.R. 1518 and urge early favorable committee action.

In addition, we urge the Subcommittee to consider an amendment to 5 U.S.C. 8331(20) that would clarify the definition and criteria of a law enforcement officer so that similarly situated occupation groups are treated fairly and equitably. I would be happy to answer any questions you may have.

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